

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM D. BREIT,

Defendant.

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Civil Action No. 2:14cv557

**DEFENDANT’S ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF’S COMPLAINT**

COMES NOW William D. Breit (“Breit”), by counsel, and for his Answer to the Complaint filed by the United States of America (“USA”), respectfully states as follows.

Answer

1. Breit admits the allegations contained in paragraph 1 of the Complaint.
2. Breit admits the allegations contained in paragraph 2 of the Complaint.
3. Breit admits the allegations contained in paragraph 3 of the Complaint.
4. Breit admits the allegations contained in paragraph 4 of the Complaint.
5. In response to paragraph 5 of the Complaint, Breit admits that certain

taxes, penalties and interest have been assessed against him. Breit denies that the amounts owed for taxes, penalties and interest are as stated by the USA in paragraph 5 of the Complaint. Breit demands strict proof of the allegations contained in paragraph 5 of the Complaint. Breit affirmatively avers that he does not owe any taxes for 2010 because he believes that those amounts have been paid in full. Breit also affirmatively avers that he does not owe any amounts

for the tax period 2002 because those amounts are barred by the applicable statute of limitations. Additionally, Breit has previously entered into an agreement with the USA establishing terms for payment of certain taxes, penalties and interest that are due for 2003, 2007 and 2012.

6. Breit denies that despite notice and demand for payment, he has failed, neglected, or refused to pay outstanding assessments that are lawfully due to the USA. Breit further denies that the amount due to the USA for taxes, penalties and interest is as stated in paragraph 6 of the Complaint. Strict proof of the allegations contained in paragraph 6 of the Complaint is demanded. Breit affirmatively avers that he believes he has paid all amounts due for the tax period 2010. He further affirmatively avers that no amounts are due for the tax period 2002 because the claim is barred by the applicable statute of limitations. Breit also affirmatively avers that he made payment arrangements with the USA for certain taxes, penalties and interest that are due for 2003, 2007 and 2012 pursuant to the terms of an assignment dated November 11, 2013, wherein Breit and his law firm assigned all right, title and interest in legal fees due for a certain case pending in the Circuit Court of the City of Norfolk, Virginia, to the USA.

7. Breit reserves the right to plead further responses and defenses that may become known to him during the course of discovery and trial of this action.

Affirmative Defenses

8. ***Failure to State a Claim upon which Relief may be Granted.*** The Complaint fails to state a claim upon which relief can be granted for the amount of taxes, penalties and interest requested by the USA in the Complaint.

9. ***Statute of Limitations.*** USA is barred from recovering any taxes, penalties or interest for the tax year 2002 because those claims are barred by the applicable statute of limitations.

10. ***Payment of the Debt or Obligation.*** USA is barred from recovering any taxes, penalties or interest for the tax period 2010 because any amounts due from Breit for the tax period 2010 have been previously paid in full.

11. ***Credit Due on Tax Obligations.*** Breit does not believe he has received credit for all payments made for the tax years for which the USA is seeking a judgment. Any amounts due should be adjusted to provide credit for all payments made by Breit.

Respectfully submitted,

WILLIAM D. BREIT

By: /s/ Donna J. Hall
Of counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of December, 2014, I electronically filed the foregoing Answer to Complaint with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel of record.

/s/ Donna J. Hall
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